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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,975	03/07/2002	Gordon C. Downen	TEP0140-02	2971

832 7590 02/24/2004

BAKER & DANIELS
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

EXAMINER

PEZZLO, BENJAMIN A

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,975

Applicant(s)

DOWEN ET AL.

Examiner

Benjamin A Pezzlo

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-12 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-8, 10-12, and 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hahn (US3708041).

Hahn discloses a small utility vehicle (see col. 1 line 7), comprising a vehicle frame a transaxle (inherent or notoriously used in garden tractors) including a casing attached to said frame, a selectable speed change mechanism connected to an input and a gear reduction unit contained within said casing and connected to an output of the transmission; a pair of axles (see col. 3 line 25) extending along a common axis, each of said axles rotatably disposed in and having a portion extending from said transaxle casing; a pair of wheels (see col. 3 line 26), each of said wheels rotationally fixed to a respective one of said axles; a pair of brake discs 58, each of said brake discs having a collar portion defining an opening therethrough (see Fig. 1), each of said brake discs being mounted on a respective one of said axles (see Fig. 1), said axles extending through said collar portion openings, and said brake discs disposed between a respective one of said wheels and said transaxle casing, each of said brake discs being rotationally fixedly engaged to a respective one of said wheels; and a pair of braking mechanisms externally mounted (60, 62) on said transaxle casing proximate to a location where a

Art Unit: 3683

respective one of said axles extends from said transaxle casing, each of said braking mechanisms being brakingly engageable with a respective one of said braking discs.

Re claim 2, see Fig. 1, the ends of the axles have a solid cylindrical shape.

Re claim 4, see Fig. 6.

Re claims 5 and 6, inherent to prevent or provide brake torque steering, further, see MPEP 2144.04.VI.B.

Re claim 7, see col. 2 lines 50-55.

Re claim 8, see Fig. 2.

Re claim 10, see col. 3 line 25.

Re claim 11, see above rejection re claims 1 and 7.

Re claim 12, see above rejection re claim 2.

Re claim 14, see Fig. 6.

Re claims 15 and 16, see above rejection re claims 5 and 6.

Re claim 17, see above rejection claim 1.

Re claim 18, see above rejection re claim 2.

Re claim 19, see Fig. 6.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3683

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn (US3708041) in view of von Kaler et al. (US 4726256).

Hahn fails to explicitly disclose the transaxle being hydrostatic. Kaler et al. disclose a hydrostatic transmission with braked axles. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided the brakes of Hahn on a hydrostatic transaxle according to Kaler et al. in order to provide the brakes integrally with the transaxle.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 11, and 17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Edwards, Crawford et al., Von Kaler, and Johanesen et al. disclose related devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Application/Control Number: 10/092,975

Page 5

Art Unit: 3683

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Benjamin A Pezzlo
2/23/04

Benjamin A Pezzlo
Examiner
Art Unit 3683

BAP
February 23, 2004